

Section 5: Written Public Comment on the Reconnaissance Report

The following written comments were submitted by individuals and organizations on the Reconnaissance Report. The comments are reproduced as nearly as possible to the originals. However, attachments such as reports and newspaper articles have not been included. Many of the comments raised were answered in Section 1, General Response to Public Comment, however, comments containing very generalized statements and/or objections or support of the recommended action are responded to, often only requiring an acknowledgment of the commentor's position and/or a reference to a particular section of the document. When appropriate, specific comments within a given letter will be answered individually. The comments and responses are numbered sequentially only for reference purposes.

Number: Comment 1
Comment From: New York Coastal Fishermen's Association
Contact Information: Elizabeth Barbanes
Attorney at Law
103 South Bedford Road, Suite 106
Mount Kisco, NY 10549
(914) 241-0522
Telefax (914) 241-0747

re: Restoration of Natural Resources through the Jamaica Bay Damages Account: Reconnaissance Phase Report

The following are the written comments of the New York Coastal Fishermen's Association ("Fishermen"), the plaintiff in an action brought against the City of New York for violations of the Clean Water Act at the Pelham Bay Landfill, see New York Coastal Fishermen's Association v. Dep't. of Sanitation:

Comment # 1: As a threshold matter, the Fishermen believe that the use of "fast track" criteria is inappropriate for the determination of allocation of funds from the JBDA. Due to the inherently subjective nature of the criteria, the only sites which are designated "fast track" are located in Jamaica Bay. Three sites were designated "fast track" all due to three conditions which the Committee determined exist: "1) There is a potential development of these parcels as private homes; 2) Is one of very few developable shoreline properties in the area; 3) Advantage can be taken of depressed real estate market to pay a reasonable price." However, these conditions could be said to exist anywhere in the City where there is waterfront access. In the Bronx, for example, waterfront properties are being developed at an alarming rate.

The Committee enumerated six conditions which are to be considered "High Priority". For the three sites designated as "fast track", only one of the six conditions ("Development Pressure") has been met. In Eastchester Bay, the sites which have been listed should qualify as "fast track" because more than one of the six High Priority conditions have been met. For example, Proposal #41, Map #24, Pelham Bay Park, is a Protected Land ("High Priority" Mr. condition number 4) and is also a site with "Diverse Natural

Values" ("High Priority" condition number 2), as well as an area with actual or potential natural values ("High Natural Values", "High Priority" condition number 1). This is just one example of the flawed logic associated with ascribing values to the projects which would qualify the sites for "fast track" consideration.

Comment #2: The "Background Information" is incomplete and misleading. The information drafted regarding Eastchester Bay/Pelham Bay Park (page 3 of the "Recon Report") appears to have been drafted by someone with little or no understanding of the significance of the ecosystem in existence in the area. Eastchester Bay, the largest bay on the northern coast of the Long Island Sound, like Jamaica Bay, is an estuarine ecosystem with tidal wetlands, upland fields and woods, active and inactive parkland and open space.

There are rare intertidal communities that have been given special recognition by the New York State Natural Heritage Program.

Like Jamaica Bay, Eastchester Bay also has large numbers of species of birds and fish. There are more than seventy-nine (79) species of invertebrates in both the marine and freshwater systems. The intertidal ecosystems of Eastchester Bay are productive nurseries for the Long Island Sound fishery.

Eastchester Bay has lost significant amounts of wetlands to development, with continuous encroachment through misuse and absolute destruction. This includes the filling of wetlands on Rodman's Neck at the Police Firing Range for use as a bomb explosive and disposal pit. This bomb disposal pit was built over *Spartina patens* without, we believe, any liner or other method to protect the ecosystem. Eastchester Bay may have only one landfill, but unlike Jamaica Bay, it suffers from fifty-four (54) acres, including wetlands filled for the bomb pits, used by the Police Department for its outdoor firing range.

Comment #3: The specific proposals in the vicinity of the Pelham Bay Landfill need further elucidation.

Proposal #13, Map 24 - Turtle Cove. Bank regrading and the restoration of tidal flushing is critical to the future of this critical environmental area. In addition, unencumbered public access by wading fishermen has caused serious damage to the intertidal marsh located in the cove. The construction of an elevated wooden catwalk or pier should be considered to relieve this pressure.

Proposal #37, Map #27, - Palmer Inlet. This inlet, less than one-half mile south of the Pelham Bay Landfill, is the only productive wetland remaining on this part of Eastchester Bay. It is rimmed with *Spartina alterniflora*, has an intact Indian Fishing Weir and several types of natural communities, such as mud flats, sandy and rocky. There is a large fiddler crab community and each Spring countless horseshoe crabs lay their eggs on the sandy shores.

Most of the Inlet is surrounded by private residences, but on the north side exist the last undeveloped properties on the Western Shore of Eastchester Bay.

Specific proposals for Palmer Inlet are as follows:

1. Restore the continuous flushing by restoring brook that was diverted in 1987.
2. Ditching to discourage phragmites takeover of salt marsh- also the removal of encroaching lawns.
3. Improve tidal flushing by removing or cutting up abandoned wrecks and old concrete pier.

Since the loss of the brook, Palmer Inlet has rapidly been filling with sediment. While some local residents favor the idea of dredging, the Fishermen believe that the benefits of dredging will be short-lived absent the restoration of effective flushing.

Proposal # 41, Map #24 - Pelham Bay Park

Project - In addition to removal of concrete from the shoreline, there should be a restoration of intertidal marsh, which has already begun. There should be the movement of boulders to create a wave buffer and increased limited public access for bird watching and fishing.

The Fishermen believe that not enough consideration was given to the varied and sensitive ecosystem around the Pelham Bay Landfill. Eastchester Bay is every bit as important ecologically as Jamaica Bay both from a marine resources standpoint and as part of the flyway for numerous migratory birds.

In addition, as my client has a "special interest in the Jamaica Bay Damages Account planning process" (see Public Meeting Agenda, page two) I would like to request a meeting be scheduled between DEC staff personnel and members of the Fishermen to more fully discuss our comments and ask questions regarding the planning process.

Response 1

"Fast track status was assigned to 3 projects that not only met the rationale for "fast track" designation but also ranked high in the project selection criteria. Many properties within each ecosystem discussed in this report are vulnerable to development and rank relatively high in project selection criteria. However, the JBDA is a limited resource for both acquisition and restoration of properties.

Eastchester Bay is an important resource and several projects within Pelham Bay Park are being more extensively researched for restoration.

Number: Comment 2
Comment From: Bronx Council For Environmental Quality
Contact Information: Jorge Santiago
P.O. Box 526
Bronx, NY 10475
(718) 671-9519

The comments below are my responses to the October 11, 1994 meeting regarding the Jamaica Bay Damages Account Reconnaissance Report. At the meeting I emphasized that Bronx Projects should have their own fast track priority list, separate from those of Jamaica Bay. Here I summarize which projects the Bronx should have the highest priority.

Eastchester Bay, the Hutchinson River, and western Long Island Sound are, historically, one of the best fisheries in the whole estuary surrounding New York City. Nesting and migratory birds number in the hundreds, and this area, and unlike Jamaica Bay or any other area nearby, it is still home to one of the

original sea mammals of the area, the harbor seal. Because the Bronx coastline is a rocky shore with marshes, mudflats, as well as sandy shoreline from constructed beaches, it has more diverse habitat than any other area in the City. The restoring of these habitats should receive the highest priority for funding since restoration will both remediate water quality, and add to the richest ecology in New York City.

Pelham Bay Lagoon (Proposal 10) is the highest quality mudflat, saltmarsh, and oak forest habitat in New York City and the surrounding area. The NYC Parks Department plan to protect the forest edge here with restored saltmarsh can extend the oyster beds of the lagoon, some of the largest in New York, and increase foraging areas for brant and other birds. This is a highest priority project.

Turtle Cove (Proposal 12) has been made into a pond with more and more water added because the conduit under the roadway has partly collapsed. More than five species of wading birds and more than ten species of diving and dabbling birds can commonly be seen there. Opening the area to salt water would eliminate the phragmites reed which is starting to take over. The Parks plan to regrade can increase saltmarsh, improve flounder habitat by making the waters deeper, make 'islands' for nesting birds, as well as protected feeding habitat. This is a highest Priority project.

The marshes and upland between Ditmars and Tier Streets on City Island (Proposal 39) is already fiddler crab habitat, and was historically a creek frequented by herring and other trash presently dumped here. This area could also be used to treat storm water with native plants, improving the environmental quality of the site and water quality in Eastchester Bay. This is a highest priority project.

Palmer Inlet is one of the few remaining creeks of eastern Bronx. Efforts to establish a fair price for the adjoining land (Proposal 37) should be made as soon as possible, since illegal dumping has already occurred, probably in order to develop the area in ways which are not friendly to the nearby high quality estuary habitat and historic fishing weir preservation.

There is a mistake in the Reconnaissance Phase Report for the Restoration of Natural Resources through the Jamaica Bay Damages Account (Sept. 30 1993) which should be corrected. It states that: "Currently there are significant post-closure actions occurring to remediate the effects of dumping toxic substances at the (Pelham Bay) landfill" (page 3). Unfortunately, the closure plans for the Pelham Bay Landfill involve only capping and pumping of leachate to the Hunts Point Sewage Treatment Plant. Neither of these is "remediation", since they do not remove toxics in the landfill sediments, or protect Eastchester Bay from toxics swept out by the tides. Sending toxic leachate to a sewage treatment plant already at capacity is not remediation.

Response 2

The projects mentioned within your letter are already high priority projects, please see Section 3 for Priority Ranking of Projects and Section 1 for General Response to Public Comment.

Number: Comment 3
Comment From: Bronx Council for Environmental Quality
Contact Information: Helen C. Reel
160 Pilot St. Apt 424 City Island
New York, NY 10464-1639
Phone (718) 885-3383

Please send copy of Consent Order. Please consider sand replenishment at Orchard Beach.

Response 3

The JBDA was set up for the purpose of restoring, replacing or acquiring the equivalent of natural resources determined to have been injured by the landfills. Sand replenishment does not rank high in project selection criteria as outlined in Section 2 of this report.

Number: Comment 4
Comment From: Fran Reiter Deputy Mayor of Planning and Community Relations
Contact Information: The City of New York, Office of the Mayor
New York, NY 10007

I am writing concerning the distribution and use of the Jamaica Bay Damages Account (JBDA) as described in the September 30, 1994 Draft Reconnaissance Report on *Restoration of Natural Resource through the Jamaica Bay Damages Account*. The report contains many proposals that would improve the quality of the natural areas throughout the city and support the City's substantial investment in habitat protection. Our Departments of City Planning, Parks and Recreation, Environmental Protection and Landmarks Preservation have reviewed the report, and we have several recommendations. Accordingly, I am enclosing a list of the acquisition and restoration projects the city believes would be the best use of these funds.

First, the City should play a significant role in how these JBDA funds are allocated and our priorities should be given primary consideration in their distribution. The landfills and the environmental degradation they have caused are located within New York City. The original \$7 million of the JBDA, which we understand has increased to over \$8 million with interest, was obtained in part as a result of lawsuits brought by the City. The City's efforts were instrumental in the creation of this fund.

Second, it is our position that the fund should be distributed proportionally among the areas impacted by the five landfills. Therefore, we support a division of JBDA that would use 1/5 in Staten Island, 1/5 in the Bronx, and the remaining 3/5 in Jamaica Bay (Brooklyn and Queens). The projects on the attached list are in order of priority for each borough assuming this proportional distribution of the funds.

Third, we believe that these funds should be used primarily for the acquisition and restoration of habitat. Use of these funds for other expenses should be limited. For example, some staffing expenses will be necessary in order to implement the chosen proposals, however these should be kept to a minimum.

Finally, the report does not discuss how the proposed sites will be managed or their future ownership

once the projects are completed. Since many of the suggested project sites are adjacent to or near City Parklands, we should like to work with the DEC to coordinate management schemes and identify appropriate ownership for the chosen projects. We recommend that for any property purchased using JBDA, additional money from this fund be allocated for securing the perimeters of the acquired or restored properties from the illegal dumping and inappropriate access that are a constant threat to our natural areas. Restoration money is particularly critical for any sites in Jamaica Bay, including those already acquired for buffering the bay as well as any future acquisitions. We believe that a portion of these funds should be set aside as a dedicated source of money to be used for the ongoing care of any acquired natural areas. This will provide not only for the protection of the land but also for the preservation of the habitats located on these properties.

The JBDA provides a means of creating a lasting gift to the people of New York and would help to ensure the beauty of natural areas throughout the city. We look forward to working with your agency toward our shared goal of habitat improvement within New York City. Wilbur L. Woods, Director, Waterfront and Open Space Division, Department of City Planning has been coordinating the review efforts of the city agency staff members. Mr. Woods can be reached at (212) 720-3523 to arrange further discussion of these issues.

Thank you for your time and attention to our concerns.

Response 4

We have included New York City's input to help in DEC's decisions on how the funds are distributed. Please see Section 1- General Response to Public Comment.

Number:	Comment 5
Comment From:	NOAA/ NMFS
Contact Information:	Michael Ludwig 212 Rogers Avenue Milford, CT 06460-6499 Phone: (203) 783-4228 Fax: (203) 783-4295

The document appears to be quite thorough and representative of the discussion held last year. We're not convinced that land purchases represent the best use but can understand the desire to use the funds for such activities. Nice job on the document.

Number: Comment 6
Comment From: U.S. Army Corps of Engineers
Contact Information: Len Houston
26 Federal Plaza
New York N.Y. 10278
Phone: (212) 264-1275
Fax: (212) 264-5472

As you requested, I have attached 2 copies of our recon evaluation of restoration potential in Jamaica Bay. As you can see, a strong case for a Federal interest in understanding a restoration project in the l exists. If a cost-sharing sponsor were available, Federal funds to study and design a suitable project c be applied for, with construction to follow. This is a high-interest project and funding would have a g chance of being approved, providing the project fit our guidelines and was reasonably certain to successfully provide significant ecosystem improvements for the bay. Though we can't recommend l acquisition, here are a number of habitat creation/restoration effects that fit our guideline and are compatible with project identified in Recon rpt and with NYC-DEP comprehensive watershed mgmt plan. I believe Federal funding for such an effort would greatly expand the work you propose to do, a stand ready to discuss them with you in the near future. Don't hesitate to call with question.

Response 6

Please see Section 4-Additional Projects.

Comment: Comment 7
Comment From: Protectors of Pine Oak Woods, Inc.
Contact Information: 80 Mann Avenue
Staten Island, NY 10314
(718) 761-7496

re: Comments on Phase I, Jamaica Bay Damages Account

Protectors of Pine Oak Woods, Staten Island's land conservation, park advocacy, wetlands defense organization, appreciates the opportunity to comment on issues, criteria for prioritization and selectio projects, procedures for administering the Jamaica Bay Damages Account and for coordinating with other groups, and the opportunity to recommend projects which Protectors believes should be finance by the Jamaica Bay Damages Fund.

This letter will comment on philosophical and procedural issues raised in the report. An accompanyi letter will discuss and provide support documentation for Protectors' recommendations for funding of projects on Staten Island.

Comments on Types of Projects:

Highest priority - acquisition/protection of intact freshwater and tidal wetland resources which provide purified, nutrient-rich waters to marine resource areas/coastal areas damaged by the hazardous waste dumping in the five City landfills, resulting in fines which comprise the Jamaica Bay Damages Fund.

Wetland resources to be acquired need not be within the same estuary when, as is the case at the Brookfield Landfill/Richmond Creek hazardous waste dump site, all of the estuary is already in public ownership as a continuing landfill site (Fresh Kills Landfill) and in parkland (LaTourette Park and the Wm. T. Davis Wildlife Refuge). Jamaica and Eastchester Bays are defined as the ecosystems affected; the S.I. eco-system affected includes Richmond Creek, the Arthur Kill and the Raritan Bay, not Richmond Creek alone.

Acquisition is the highest priority because lands lost are gone forever - there is no effective way to recreate or replace them.

Next Highest priority - restoration of freshwater and tidal wetland resources, as above.

Last priority - replacement of resources. Protectors feels there are so many worthy S.I. acquisition projects and so many apparently worthy restoration and acquisition projects Citywide that, considering the limited assets of the Jamaica Bay Damages Fund, replacement projects should not be attempted.

Comments Regarding Adding to the List of Possible Projects on S.I.

While Protectors could generate additional Staten Island projects which may be appropriate, for example. acquisition and restoration of the Finlay and Carteret Street feeder sources of AR-15, the Ward's Point Wetland within Conference House Park (see our letter of 9/7/94 to Phyllis Atwater and Jim Gilmore and the 9/8/94 letter of the Conference House Park-Raritan Bay Conservancy to Jim Gilmore), and evaluation of the costs and benefits involved in this and other potentially additional projects and the limited Jamaica Bay Damages Funds available, we conclude it is unwise and unhelpful to suggest other projects which might detract from those already proposed.

Number: Comment 8
Comment From: Sally Robusto
Contact Information: 7 Poillon Avenue
Staten Island, NY 10312

re: Comments on Restoration of Natural Resources through the Jamaica Bay Damages Account Reconnaissance Phase Report.

I am not a scientist or a marine biologist, but I am a resident of Staten Island and I would like to see what is left of our woodlands saved from development. I have come to learn that streams, ponds and other waterways play a very important part in our eco-system and flood management. If you lived on Staten Island, you would understand that flood management is a very necessary part of our lives here because there are many areas that experience severe flooding. It is for that reason, and the fact that I care about

saving our trees, streams and ponds, that I urge you to allocate funding for protection of the Paw Paw ar Hybrid Oak Woods areas. These are rare trees which have been studied since 1888 and should remain protected for all to see and enjoy. Also, the wetlands and waterways in these woods, bring fresh water filled with nutrients to the Raritan Bay area. Developing 400 MORE homes on Staten Island will bring no benefit to those already living in congestion here and certainly will NEVER benefit a shrinking woodland.

WE NEED TO SAVE MORE OF OUR OPEN SPACE AREAS - not develop them. PLEASE HELP SAVE PAW PAW AND HYBRID OAK WOODS.

Sally Robusto

Number: Comment 9
Comment From: Ellen O'Flaherty Pratt
Corresponding Secretary
Contact Information: Protectors of Pine Oak Woods
80 Mann Avenue
Staten Island, NY 10314

re: Jamaica Bay Damages Account

Enclosed is an article, "Ecologists Read the Rolls of Vanishing Species on Staten Island," which appeared in the October 18, 1994 Science Times section of *The New York Times*.

This article relates to our recommendation that the Tottenville Wetlands - Paw-Paw-Hybrid Oaks Woods, a botanical treasure house, be fast tracked for acquisition in implementing the Jamaica Bay Damages Account.

[Article attached]

Number: Comment 10
Comment From: Michael G. Arale
Contact Information: 203 Fairview Avenue
Staten Island, NY 10314-3062

I feel that it is important that a portion of the fine monies collected from the Brookfield/Jamaica Bay remedial fund be used to purchase the area known as the Paw-Paw Hybrid Oak Woods on Staten Island. The area in question is located between Page Ave and Joline Ave on the water side of Hylan Blvd in the Tottenville section of Staten Island. If this area is not purchased soon I fear that it will be developed shortly. Since this area contains rare hybrid oaks as well as paw-paws, I feel that it must be saved now before it is too late.

I am a board member of the Protectors of Pine Oak Woods, Inc. who also support this proposal to acquire the above mentioned parcel of land. Since this land contains the only stand of hybrid oaks in the state, we feel that this land is worth saving. Thank you for your time and consideration in this matter.

Number: **Comment 11**
Comment From: Mrs. Louise Phillips
Contact Information: 112 Green Valley Road
Staten Island, NY 10312

I am writing to ask you to help us preserve the PAW PAW woods/hybrid oak woods in Tottenville, Staten Island. I understand that about \$7 million dollars has been set aside from corporate fines for environmental preservation. It is extremely important that some of these funds be used to preserve this portion of the Tottenville wetlands that is so vital to our ecosystem.

Thank you for your attention to the opinion of Staten Islanders on this issue.

Number: **Comment 12**
Comment From: John and Kathleen Heller
Contact Information: 44 Guyon Avenue
Staten Island, NY 10306

With regard to the \$7 million fund referred to as the Jamaica Bay Damage Fund, I strongly suggest that a substantial part of this fund be earmarked for the acquisition of wetlands in the Tottenville section of Staten Island known as the "Paw-Paw and Hybrid Oaks."

Number: **Comment 13**
Comment From: Celine P. Joyce
Contact Information: 38 Bent Street
Staten Island, NY 10312

Re: Paw Paw Woods and Hybrid Oaks Woods, AR-15

This \$7 million dollars that is being held must be used to protect various areas here on Staten Island.

Staten Island does maintain the world's largest dump and anything that can be done to help the wetlands and waterways.

Please allocate the necessary funding to protect the Tottenville waterways and the above referred two wooded areas.

Number: Comment 14
Comment From: Helen Hauber
Contact Information: 70 Delaware Ave.
Staten Island, NY 10304

Please use the money available to preserve the area known as AR-15 wetland, the Paw-Paw Woods area - Hybrid Oaks Woods. I understand the owner is the Hybrid Oaks Woods. & L. Development Corporation. Tottenville, Staten Island is still an area we can enjoy in a virgin state.

Number: Comment 15
Comment From: Jean Taylor Freedman
Contact Information: 98 Keegans Lane
Staten Island, NY 10308

I am writing to you because of my passionate interest in saving the Paw-Paw Woods Hybrid Oaks Woods of Tottenville, Staten Island. This part of the Tottenville Wetlands is designated AR15.

I am the Land Trust/Nature Conservancy Chairman for the Federated Garden Clubs of New York State, Inc. and have long been interested in preserving this wonderfully rare pristine area.

I understand there are funds available for this now, namely the Jamaica Bay Damages Account supervised by NYSDEC. If the money is divided five ways and one-fifth goes to the Borough of Richmond, I would like to see it go to save the Paw-Paw-Hybrid Oaks Woods, parcel AR15.

In addition to being the site of many rare trees and plants, a large wetland system of streams and marshes drains eastward through the two blocks to be acquired into the Butler Manor wetlands, entering the Raritan Bay south of Butler Manor. This wetland system, AR-15, delivers purified and nutrient rich fresh water to the Bay heavily used for resting and feeding by migrating ducks and other waterfowl.

Number: Comment 16
Comment From: Olga Federeco
Contact Information: 376 Guyon Ave.
Staten Island, NY 10306

The seven million dollars which have been earmarked for acquiring agency[?] environmentally sensitive areas, included in the areas should be the Hybrid Oaks Woods Paw-Paw Woods in the Tottenville end of Staten Island.

The trees of the area are unique for this area being the most northerly Paw Paws on the east coast and the oaks a unique hybrid.

The are part of AR-15, south of Hylan Blvd. and west of Page Avenue.

Number: Comment 17
Comment From: Barbara Hosie
Contact Information: 973 Carlton Blvd.
Staten Island, NY 10312

I'm writing to encourage you to vote some of the moneys available to preserve the Paw Paw Hybrid Oaks Woods which are part of the Tottenville Wetlands, designated AR15.

We are living very close to the Brookfield Landfill, not to even mention the horrible Fresh Kills Landfill.

All the land we can save for our grandchildren is an investment in their future.

Here on Staten Island we are inundated with new housing, enough is enough.

Number: Comment 18
Comment From: Mrs. G. Hicinbothem
Contact Information: 168 Lovelace Ave.
Staten Island, NY 10312

As a resident of Staten Island I would highly recommend the funds available to be spent on the Paw-Paw Woods and Hybrid Oaks Woods project. It is part of the Tottenville wetlands, AR-15.

Since these funds were obtained in the form of fines which had damaged the land it only seems fitting to put nature back the way it was.

Number: Comment 19
Comment From: Borough of Staten Island Community Board 3
Contact Information: Alfred J. Brumme, Chairman of the Board
Charles P. Talley, Ph.D., Chairman, Environmental Committee
655-218 Rossville Avenue
Staten Island, NY 10309

Thank you for the opportunity to comment upon the use of the Jamaica Bay Damages Account.

Community Board #3 encompasses many crucial freshwater and tidal wetland resources which are important to the health of the Arthur Kill and Raritan Bay. Since the Brookfield and Fresh Kills landfills are wholly or partially located within Community Board #3 and since their improper operation has resulted in damage to the Arthur Kill and Raritan Bay, we consider it fitting that restorative projects in Community Board #3 which directly effect the improvement of the Arthur Kill and Raritan Bay should be funded.

At the October 25, 1994 general Board meeting, Community Board #3 on Staten Island passed the following motion unanimously:

"that the Staten Island portion of the illegal landfill dumping fines be used to purchase the parcel bordered by Hylan Boulevard, Raritan Bay, Richard Avenue and Joline Avenue and that these parcels be added to the Conference House Park."

These boundaries include Paw-Paw Woods /Hybrid Oaks Woods and the Butler Manor wetlands and coastal area.

Community Board #3 believes that the acquisition and preservation of these two major freshwater wetland feeder systems which flow into Raritan Bay will help compensate for the damages to water quality and marine life caused by the Brookfield landfill toxic waste dumping. We are concerned that no other funding sources have been identified for these acquisitions, presenting an excellent opportunity for the use of some of the Jamaica Bay Damages Account.

Number: **Comment 20**
Comment From: Melissa DeRenzi
Contact Information: 10 Mason Bv.
Staten Island, NY 10309

Re: Site # 51: Paw-Paw Woods, Tottenville, SI, NY

As a native Staten Islander (third generation) I feel I am obligated to write and plead with you to help Staten Island maintain some of its pristine qualities, which I think can be obtained by adding Carteret Street and Finlay Street Streams to Proposal # 51. Carteret Street Stream has already been damaged by developers and needs repairs; let's not let more damage occur before ever important repairs they feed the AR-22 Wetland System in Conference house park. Again is not just the folly of some nature nut; (which I am) it is reality that our quality of life here on Staten Island has declined greatly the past 15 years. Let's try to help our future generation as well as the present.

Thank you in advance for your consideration.

Number: **Comment 21**
Comment From: C.H.P. Raritan Bay Conservancy
Contact Information: 263 Manhattan Street
Staten Island, N.Y. 10307
Phone: (718) 356-6368

The Conference House Park Raritan Bay Conservancy is in full support of the JBDA proposal 3 51 - land acquisition - purchase of the Paw-Paw/ Hybrid Oaks Woods in Tottenville Staten Island, N.Y.

However, we feel proposal # 51 should also include the two AR-22 wetland feeder streams and small surrounding woodland south of Kylan Blvd. on Carteret St. and Finlay St. A letter, map, and photograph of these areas has been sent to James Gilmore explaining the importance of preserving these streams and showing their exact location. It is also important that you, receive input and information from community based organizations. Since the Conservancy is Tottenvilles environmental organization, we are sending the attached two-page letter, to explain more fully why we are requesting the preservation of both of these areas. Thank you.

Number: Comment 22
Comment From: Beatrice Nicholson
Contact Information: Nov. 2 1994
78 Poillon Ave.
Staten Island N.Y. 10312

I'm writing to ask you to help us preserve the PAW PAW Woods Hybrid Oak Woods in Tottenville, Staten Island. I understand that about \$7 million dollars has been set aside from corporate fines for environmental preservation. It is extremely important that some of these fines be used to preserve this portion of the Tottenville wetlands that is so vital to our ecosystem. Thank you for your attention to the opinion of Staten Island on this issue.

Number: Comment 23
Comment From: Taiou Uoycocal
Contact Information: 442 Beach Road
Staten Island NY 10312
November 1, 1994

I understand there are funds available for saving the PAW PAW Hybrid Oak Woods of Tottenville, Staten Island. (Wetland system AR-15). As a resident of Staten Island for 23 years I feel a portion (15 or more) of this money should go to this project. Thank you

Number: **Comment 24**
Comment From: Edward W. Johnson
Contact Information: Staten Island Institute of Arts and Sciences
75 Stuyvesant Place
Staten Island, N.Y. 10301
Phone: (718) 727-1135
Fax: (718) 273-5683

The attached documentation refers to Staten Island Proposal 51, PAW PAW Woods. It serves to update information on the site, which is more properly called the Hybrid Oak Woods, since these are the more significant plants found on the site. Historical information on the site is also provided.

Number: **Comment 25**
Comment From: Richard T. Lynch Professional Botanist
Contact Information: 17 Monroe Avenue
Staten Island, NY 10301
Ph: 718-273-3740
Fax: 718-273-3740

Comments (Attach additional pages if necessary):

The Staten Island Willow Oak/Hybrid Oak Forest is perhaps the rarest plant community in New York State. I strongly urge to increase the budget for acquiring this land, which was incorrectly delineated by NYC DPR staff. I again urge NYS DEC to review the wetland boundaries of AR-15 in the vicinity of the willow oak forest. Except for built structures, almost the entire site is *quercus bicolor/acer rubrum* swamp forest.

Please review the enclosed document, a proposal to create a willow oak/hybrid oak biological reserve in south Richmond. We hope to have this issue acted upon by the NYC Council. I would appreciate you input.

Richard T. Lynch
November 3, 1994

P.S. Add'n material by mail.

Number: Comment 26
Comment From: Karen Woytowich
Contact Information: 442 Beach Road
Staten Island, NY 10312
November 1, 1994

Dear Sirs,

I understand there are funds available for saving the Paw-Paw-Hybrid Oak Woods of Tottenville, State Island (Wetlands system AR-15). As a resident of Staten Island for 23 years I feel a portion (1/5 or more) of this money should go to this project. Thank you.

Cordially,

Karen Woytowich

Number: Comment 27
Comment From: Protectors of Pine Oak Woods, Inc.
Contact Information: Richard Buegler, President
80 Mann Ave.
Staten Island, NY 10314
PH: (718) 761-7496

James Gilmore, Director
Division of Natural Resources
NYS Department of Environmental
Conservation - Region II
47-40 21st Street
Long Island City, NY 11101

Re: Recommendation of Projects, Phase I,
Jamaica Bay Damages Account

Dear Mr. Gilmore,

Protectors of Pine Oak Woods recommends that the "Staten Island portion" of the Jamaica Bay Damages Fund be used to purchase block 7806, S.I., the Canada Mayflower/Highbush Blueberry Forest (Joline Avenue east to Bedell Avenue, Hylan Blvd. south to Conference House Park-Raritan Bay) and portions of blocks 7780 and 7775, the Paw Paw-Hybrid Oak Woods (Bedell Avenue east to Page Avenue, Hylan Blvd. south to Conference House Park-Raritan Bay) as indicated in Appendix A which is also page 9 of the Proposed Acquisition Sites/Boundaries Map contained in the September, 1994 N.Y.C. Department of Parks Natural Resources Group report on Long Pond-Butler Manor, enclosed herewith as Appendix B.

Why the Tottenville, Wetlands - Paw Paw-Hybrid Oak Woods?

Protectors call the area noted above, which is recommended for acquisition in the unified comment of New York City, the Tottenville Wetlands - Paw Paw-Hybrid Oak Woods.

Many acquisition-preservation projects are proposed and/or underway on Staten Island. Even though this same PawPaw-Hybrid Oak Wood project has been included on the N.Y.C. region's priority list prepared for the 1994 Draft Conserving Open Space in New York State plan, it is extremely unlikely these parcels, which are extremely endangered by development, could be purchased with Environmental Protection Fund (EPF) monies. Two "big ticket" high expense parcels - the gravely endangered St. Francis Seminary woodlands and ponds - and Pouch Scout Camp in the Greenbelt are the highest priority items. Both of these Greenbelt parcels are highly visible, highly recognizable recreational and wildlife habitats possessing the same glacially sculpted knob and kettle unique areas woodlands found at the adjacent DEC-owned Camp Kaufmann. Both are competing for scarce EPF monies with other statewide projects.

A project which appears on the Summary of Project Proposals list of the Jamaica Bay Damages Account Phase 1 Report, restoration and acquisition at the Harbor Herons Park-Preserve now in formation in northwestern W.I., is admittedly in closer proximity to the damaged Brookfield Landfill site. The Harbor Herons Complex is already receiving \$5 million in Exxon oil spill fines and another \$1+ million in B.T. Nautilus oil spill fines. (Appendix C enclosed). None of these fine moneys have been used on other S.I. wetland sites, as they might have been. Full time staff from the N.Y.C. D.R.P. and N.Y.C.D.E.P. are funded to work on Harbor Herons. The City's unified recommendations document does not recommend Harbor Herons. The City's unified recommendations document does not recommend Harbor Herons for Jamaica Bay Damages Account funding.

Nearby the Tottenville Wetlands - Paw Paw-Hybrid Oak Woodlands site the N.Y.C. Department of Parks is purchasing approximately 21 privately held acres which, combined with City-owned lands, will form the 110-acre Long Pond Park which abuts the very extensive wetlands and woodlands of northern and western Mt. Loretto and is nearby the approximately 50-acre Mill Creek Bluebelt preserve soon to be ULURP by N.Y.C.D.E.P. Long Pond Park, one of the recommended outcomes of the City Planning Department's Long Pond-Butler Manor Neighborhood Disposition Plan (1992-1993) is slated to begin ULURP within the next six months.

Another area recommended for acquisition in the above City Planning Department report, the approximately 14-acre Butler Manor wetlands (located between Page Avenue and Central Mt. Loretto, Hylan Boulevard and Conference House Park-Raritan Bay) will be protected as Phase II of Long Pond-Butler Manor project and will be annexed to Conference House Park. The Butler Manor wetlands contain such large amounts of designated freshwater wetlands and Designated Open Space that the area New York City's top priority but is recommend to the Jamaica Bay Damages Fund only if moneys are left over after acquisition of the recommended Tottenville Wetlands - PP-HOW site.

Other South Richmond freshwater systems, listed as Bluebelts in the draft Conserving Open Space Plan seems to be proceeding slowly but satisfactorily toward preservation and restoration under the direction of Dan Gumb at N.Y.C.D.E.P.

Rationale for Selection of the Tottenville Wetlands - Paw Paw-Hybrid Oak Parcels for Jamaica Bay Damages Fund Financing

As previously noted, Protectors feels that DEC's definition of the area affected by the Brookfield landfill hazardous waste dumping as "Richmond Creek" is far too narrow for reasons previously noted on page 1 of our 11/1/94 letter to you, enclosed.

Both the Brookfield Landfill and the proposed Tottenville Wetlands project are in South Richmond, S.I. and are within Community Board 3. Both impact waters of the Arthur Kill and Raritan Bay and both did/do provide habitat and resources for migrant waterfowl, water birds, songbirds, insects, butterflies and for reptiles, turtles, frogs and amphibians.

Brook-field, located at the mouth of the Sweet Brook watershed which drains large areas of southern Staten Island from Great Kills to Annadale, to Eltingville, was, prior to its selection as a N.Y.C. landfill and its subsequent destruction and poisoning, a series of freshwater brooks and streams meandering through meadows and fields along the banks of Richmond Creek. The area was called "Fairy Land" because of its beauty. Brookfield and Sweet Brook, before their destruction at the hands of man, provided nutrient-rich, purified fresh waters to Richmond Creek, the Arthur Kill and the Raritan Bay, in a manner similar to the damaged but not-yet-destroyed western branch of the Tottenville Wetlands (proposed acquisition site) will supplies water to the Raritan Bay.

Brookfield and the neighboring tidal-freshwater basin of Richmond and Main Creeks, Fresh Kills, have been destroyed forever by land filling and improper landfill procedures. Daily they contribute millions of poisonous hazardous waste-filled, leachate-filled gallons of water to the Arthur Kill and the Raritan Bay. Preservation of the remaining intact portions of the Tottenville Wetlands, including the Butler Manor and western Mt. Loretto wetlands, will assure a continued supply of clean, rich freshwater from this 88-acre wetland system into the Raritan Bay.

There are NO OTHER FUNDS available within the near or distant future to acquire the Paw Paw-Hybrid Oak Woods portions of the Tottenville Wetlands. A developer, who has a freshwater wetland permit from DEC and is near-to-final-filing of his 400-unit townhouse development in the block closest to Page Avenue, will destroy this wetland resource and severely damage its contributions to the health of the fisheries and shell fisheries of the adjacent Raritan Bay.

A Brief History of Recent Efforts to Protect the Tottenville Wetlands - Paw Paw-Hybrid Oak Woods

The Tottenville Wetlands - PP-HOW area has long been the site of botanical study and note and has repeatedly been proposed for preservation. (See appendix f, Extract from the Proceedings of the Natural Science Association of Staten Island, September 8, 1888; appendix G, Bulletin of the Torrey Botanical Club, Report on the Field Trip to Richmond Valley Staten Island on July 15, 1962; appendix H, The Effects of the Disastrous Fires of April 20, 1963 on the Natural History of Staten Island, Staten Island Institute of Arts & Sciences Conservation Series, #5, 1963). Botanical discoveries and re-discoveries of the 1990's (see appendix I, Hybrid-oaks A Critical Part of Staten Island's Vanishing Heritage, Staten Island Advance, March 23, 1990; appendix J, Pawpaw Grove in Danger, Staten Island Advance, September 18, 1990, appendix K, Keep yer paws off pawpaw tree, Daily News, September 17, 1990, appendix L, Save the Hybrid Oaks, Staten Island Advance, September 21, 1990 and appendix M,

Significant Flora of H&L Development Tract, Staten Island have prompted additional appeals for preservation.

Announcement of a 400-unit development planned by H & L Development Corporation, owner of much of the block between Bedel and Page Avenues (see Appendix N), alarmed preservationists and led to further visits and explorations of this area. This resulted in discovery of the PawPaws, discovery of several rare herbaceous species (see appendices B and M), discovery of additional hybrid oaks and many additional Willow Oak hybrids in both this and the next block to the west (also proposed as part of this acquisition site) and recently, discovery of a Persimmon Tree.

To the horror of preservationists and residents of the Tottenville, Prince's Bay, Pleasant Plains and Butler Manor communities, DEC, threatened by a de-designation and hardship appeal before the Freshwater Wetlands Appeal Board, issued a freshwater wetlands permit to H & L Development Corporation which applied maximum protection under the law, establishing a 100-foot-wide "no-development" zone on either side of the AR-15 stream, with the proviso* that the same amount of water must be supplied to the wetland, no more, no less. Considering the extent of the wetland and the lack of protection for its benefits and for the unique botanical treasures on the H & L site, the permit opened the road to disaster but probably was all that the law could justify. Efforts to designate Mallow Pond proved futile and it was expected to be filled in.

A group of preservationists, including representatives of Protector, the District I Federated Garden Clubs, the S.I. Institute of Arts and Sciences and The Conference House Park-Raritan Bay Conservancy planned strategy, attempting to involve The Nature Conservancy, The N.Y.C. Department of Parks (which was successfully done), Barbara Fife, the Deputy Mayor, and The Department of City Planning. A meeting** to explain the uniqueness of the site resulted in discussions of how to more the 400 units around the site to do the least damage. Botanical surveys and reports and news articles were supplied to Barbara Murray, the City Planning Department - S.I. staff member who was handling the developer's plan.

* ridiculous and impossible to achieve

** with staff of S.I. N.Y.C. Department of City Planning

The developer was requested to map the rare flora and to attempt to configure his development around it, leaving open space and rare trees in various small areas among the townhouses. The City Planning Department's Neighborhood Land Disposition Plan for the area mentioned the hope to preserve these unique habitats and valuable, functioning wetland but offered no hope of funding, since the City was donating dozens of acres to Long Pond Park and several acres to the Butler Manor tract of Conference House Park as well as funding the purchase of more than 20 privately held acres.

H & L Development Corporation could walk into the offices of S.I. City Planning Department today and begin review of the final draft of its development plan, environmental studies and reports and DEC wetlands permit in hand. There is NO OTHER MONEY to buy this parcel to avert development.

PROPOSAL # 1 - Staten Island

PROJECT DESCRIPTION: Purchase of approximately 14 acres of coastal plain property containing the western portions of AR-15, the Tottenville Wetlands, between Joline and Page

Avenues, Hylan Blvd. and Conference House Park, in Tottenville, S.I. New York City proposes to contribute block 7800 to the project and will probably connect this wetland-botanical preserve area by also adding City-owned connector parcels with access to Conference House Park

- property does not need to be cleaned or restored
- security, fencing and signage may be desirable
- restoration not needed; intact wetland

PRIORITY ATTRIBUTES and RATIONALE FOR "FAST-TRACK" DESIGNATION

RATIONALE FOR "FAST-TRACK" DESIGNATION

- Development of this parcel is imminent upon improvement in the real estate market. Hylan Boulevard interceptor sewer is in place and functioning. 400 townhouse units are planned.
- DEC wetlands permit has been issued. Permit issued under threat of application to Freshwater Wetlands Appeals Board. No active case before the FWAB.
- Application with Department of City Planning nearly complete; environmental reviews apparently completed; could have returned in late 1993 and 1994 to City Planning.
- Advantage can be taken of depressed real estate market, especially for townhouses on the South Shore, to pay a reasonable price.

HIGH PRIORITY ATTRIBUTES:

High Natural Values - extremely high natural values in wetlands function, richness of rare and endangered and unique plant life (appendix B, also documents from Dr. David Hunt of The Nature Conservancy); refer to DEC Final Freshwater Wetlands Classification Report for AR-15, appendix O enclosed, for extensive wetland benefits/functions, extensive wetland vegetative diversity, extensive plant species list, wide ranging wildlife species reported, and to Appendix B, Report of The Natural Resources Group, NYCDPR for documentation of richness of plant and animal species and ecosystem functioning attributes.

Diverse Natural Values- see great diversity, as noted in sources above.

Development Pressure- see discussion on pages 4 and 5 of this letter. Most of the site's value would be lost if development, even according to the impossible conditions of DEC permit, were to occur.

Consolidation of Protected Land- nearby Conference House Park, which is eroding into the Raritan Bay, would benefit by the addition of this proposed acquisition, and the approximately 14 acres planned/recommended by NYCDPR to be added at lower Butler Manor. 110-acre Long Pond Park in creation; extensive forested, marsh and swamp wetlands in northwestern and south-western Mt. Loretto are designated for protection; approximately 50 acres of Mill Creek Basin in process of being protected as NYCDEP Bluebelt. Coastal areas of Atlantic Migratory Flyway stabilized and maintained to partially mitigate extensive coastal plain-S.I. development occurring further southwest in Tottenville and along the Raritan Bay coastline.

High Restoration Potential- no restoration needed unless, of course, development occurs, after which

restoration is basically ineffective (our opinion).

Availability of Complementary Funding- NYC proposes to donate lots it owns in block 7800, is creating Long Pond Park, Mill Creek Bluebelt and will create Butler Manor addition to Conference House Park a well.

PRIORITY ATTRIBUTES of Staten Island Proposal # 1

Access - will assure availability and access to rare botanical treasure house site for students, botanists, propagators.

High Social Value - very high educational, research potential as well as potential to study vanishing butterflies, amphibians, flora and hybridization of trees, plants.

Buffering - Conference House Park shoreline is eroding into the Bay; addition of this and Butler Manor Wetlands will provide "depth" of terrain to park and resource for local and migrating wildlife.

Appropriateness of Adjoining Lands: large tracts of open space nearby are being converted to parks and preserves; 240+ acre Conference House Park adjoins site. Mt. Loretto at-the-sea, 125 acres, on Draft Conserving Open Space List, apparently not for sale.

Local Public Support: Protectors of Pine Oak Woods, S.I.'s largest land conservation organization with 2,500 members strongly supports this priority; objects to others unless this is accomplished first. community Board 3 unanimous resolution forthcoming if it has not yet been received. Letters of support should have arrived and should be arriving. See commentary at Draft Conserving Open Space in N.Y.S. Hearing, 11/17/94. S.I. Friends of Clearwater has sent letter of support from Vice President.

Meets Existing Planning Priorities- this category belongs in High Priority Issues category. NYC Department of City Planning Neighborhood Open Space Designation Report on area recommends preservation if possible. Contact Barbara Murray, 718-727-8453 for documentation if desired.

Again, Protectors urges DEC to follow the unified recommendations of the New York City agencies involved in commenting upon the Jamaica Bay Damages Account, at least as far as Staten Island properties and opportunities are concerned.

We look forward to continuing our productive and supportive relationships with NYSDEC staff.

Sincerely yours,

Richard P. Buegler,
President

Ellen O'Flaherty Pratt,
Corresponding Secretary

cc. Hon. Phyllis Atwater
Jane Cleaver
Mark Matsil, Director, NRG